

REMARKS

Claims 1 - 72 remain active in this application. The specification has been reviewed and editorial revisions made where seen to be appropriate. Claims 1, 4, 6, 37, 40 and 42 have been amended. Support for the amendments of the claims is found throughout the application, particularly in Figures 4 and 5 and the description thereof on pages 12 - 15. No new matter has been introduced into the application.

Claims 1 - 72 have been rejected under 35 U.S.C. §102 as being anticipated by Hultgren. This sole ground of rejection is respectfully traversed, particularly as being moot in view of the amendments made above.

Hultgren is concerned with routing of messages over a network over links which meet quality specifications which is somewhat similar to the function of the invention in assuring that communications are of the desired quality. Therefore, numerous elements of Hultgren may seem to correspond to elements of the invention and to individually be superficially similar thereto. However, Hultgren is principally directed to marketing of available high-quality links of "guaranteed" performance while the invention is principally concerned with reservation of sufficient links of sufficient quality, including back-up links, to assure reliability of communications. Moreover, the invention reserves a quality of service (QoS) resource for a set of multiple calls as contrasted with doing so for individual calls. Consequently, while conventional systems must frequently release a reserved resource and reserve a further resource for a subsequent call, the present invention can avoid such frequent reservation or release of a resource because these operations are performed based on thresholds for multiple calls.

Contrary to the Examiner's assertions, it does not appear that Hultgren monitors the state (e.g. operating state) of the network for the simple reason that Hultgren performs routing based on "guaranteed" performance of respective links in the network (see column 2, line 64) and is principally concerned with prompting a user to use available links which will provide higher performance than the user may have specified (see, for example, column 5, lines 24 - 56) and obtaining bids and setting prices for services over particular lines exhibiting different degrees of performance as described with reference to Figure 4 in columns 10 and 11 on which the Examiner relies. While Figure 4 includes depiction of an error rate tester 234, the description thereof in columns 4 (line 19) and 10 (lines 9 and 18) clearly indicate that it is merely a source of data which is "consulted to determine" the *maximum* bit error rate on the link and not the *actual* error rate on the link and does so in the process of evaluating bids for the price for use of the link per unit time.

Further, contrary to the Examiner's assertions, while Hultgren performs a computation for purposes of resource allocation, it appears that the computation of Hultgren is simply for the purpose of determining that links along a proposed route can be obtained that will have a "guaranteed" performance meeting user specifications and while it appears that Hultgren may thus broadly answer the recitation of the computation being "based on resource requirements" it does not answer the recitation of "with reference to the network state information" immediately following the phrase "based on resource requirements" in each of the independent claims and particularly not in combination with monitoring the network state in order to obtain the network state information. Accordingly, it is respectfully submitted that Hultgren does not

anticipate any claim in the application as originally filed and currently rejected.

While it is true that a claim, taken as a whole, should be given its broadest reasonable interpretation and that limitations from the specification should not be read into the claims, it is also true that the Examiner must consider the terminology of the claims as defined and used in the specification. In the present case, it appears clear that the Examiner is construing the word "state" much differently from the manner in which it is defined and used in the specification and its intended meaning in the claims. For example, it appears that the Examiner may be construing "state" as the existing or "in-use" individual links in the network, while it is clearly used in the specification of the present application in the sense of a state of operation and reflecting the actual current performance of respective links of the network as monitored by the invention, including failures and reception of traffic/signals or reduced quality. This feature of the invention in combination with set-up based on resource allocation to handle multiple calls which is, in turn, based on actual network performance allows and supports the function of set-up based on resource allocation information which includes capacity for handling multiple calls with a reserved quality of service (QoS) resource and back-up links in anticipation of failure or temporarily reduced link performance; a function not available from or even seen to be contemplated by Hultgren. Likewise, by reserving a QoS resource for multiple calls based on thresholds in regard to the number of calls (as contrasted with reserving a resource for each call), the invention avoids frequent reservation and release of resources and the consequently greater set-up delay for each call; a further meritorious function not available from or contemplated by Hultgren.

Accordingly, in order to forestall debate over the construction to be accorded to particular terminology in the present claims, the consideration of failures and received signal/traffic quality has been explicitly recited in the independent claims. Further, recitations of "set-up" have been amended to include "an aggregate of calls" (e.g. calls which have not yet arrived at the network - see page 12, lines 11 - 17) as well as the resource allocation information. Antecedent language correspondence has also been improved to clearly indicate that the resource allocation information, in turn, includes failure and received signal/traffic quality information. These features of the invention are clearly not taught (or suggested) by Hultgren and Hultgren clearly cannot anticipate the claims as amended above and would be even more clearly in error in regard thereto. Thus, while it appears that the Examiner has not made a *prima facie* demonstration of anticipation of the claims as originally filed, it is clear that the Examiner cannot do so based on Hultgren in regard to the claims as amended above. Accordingly, it is respectfully requested that the sole ground of rejection for anticipation by Hultgren be reconsidered and withdrawn.

Since all rejections, objections and requirements contained in the outstanding official action have been fully answered and shown to be in error and/or inapplicable to the present claims, it is respectfully submitted that reconsideration is now in order under the provisions of 37 C.F.R. §1.111(b) and is respectfully requested. Upon reconsideration, it is also respectfully submitted that this application is in condition for allowance and such action is therefore respectfully requested.

A petition for a three-month extension of time has been made above. If any further extension of time is required for this response to be considered as being

timely filed, a conditional petition is hereby made for such extension of time. Please charge any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 50-2041.

Respectfully submitted,

A handwritten signature in cursive script, reading "Marshall M. Curtis".

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